

## REMARKS

The Office Action contained an objection to an informality in the claims, and rejections of the claims under 35 USC §§102 and 103. Each will be responded to below.

a. Response to Objections to Claims

Claim 1 was objected to on the following grounds: "Lines 8-17 recite an improper Markush group of alternatives."

Applicant respectfully disagrees, and requests that the objection be reconsidered and withdrawn. A Markush group is an expression for alternatively claiming elements (usually, chemical ingredients) that will work in the claimed combination; for example, "a metal selected from the group consisting of copper, silver and gold."

Claim 1 is not alternatively claiming the three locations that are recited at lines 8-17. Rather, this element of the claim is directed to the "means for selectively moving said traveling conveyer", and lines 8-17 recite the locations to which the means can move the conveyer. In short, this element does not alternatively claim means for moving the conveyer, but rather a means that can move the conveyer to the recited locations.

Accordingly, for the reasons explained above, Applicant respectfully requests that the objection on the basis of an improper Markush group be reconsidered and withdrawn. If, however, the Examiner does not concur with Applicant's arguments in this regard, Applicant would be pleased to discuss the matter with the Examiner and amend the claim as appropriate.

b. Response to Rejections of Claims under 35 USC §102

Claims 1-3, 5 and 11 were rejected under 35 USC §102(b) as being anticipated by *Weir* (U.S. 3,613,910). For reasons explained below, Applicant respectfully traverses the rejection.

In the rejection, the Examiner stated "*Weir* discloses a warehousing system comprising: feed conveyer 215; tiered storage racks 176, loading/unloading conveyer 24, traveling conveyer 120, means 123 for selectively moving traveling conveyer between a location in which a traveling conveyer 120 is aligned with the storage racks 176 and a location in which a traveling conveyer is aligned with a loading/unloading conveyer 24, traveling conveyer deck 120, means 129 for elevating the deck, wheeled chassis 123 and track 121."

Applicant respectfully disagrees. Claim 1 expressly requires "a traveling conveyer" and "means for selectively moving said traveling conveyer" between the specific locations, as discussed above. The Office Action asserts that element 120 in *Weir* constitutes a "traveling conveyer"; however, element 120 is not a conveyer, but is instead a stacker crane that raises and lowers a platform (128). A conveyer transports a stream of articles along a predetermined path, usually formed by belts or rollers (e.g., "conveyor - a horizontal, inclined, or vertical device for moving or transporting bulk material, packages or objects in a path predetermined by the design of the device, and having points of loading and discharge, fixed or selective, (*Glossary of the Material Handling Industry of America*). The stacker crane does not move the articles along a particular path, but rather carries them along many different paths amongst the storage racks.

The stacker crane 120 of *Weir* therefore does not constitute a "traveling conveyer", as required by claim 1. Furthermore, the gear driven mechanism within the platform 128 is not a conveyer, and merely extends fingers/tines to one side or the other so that they will interfit with corresponding slots in the racks and "transfer tables" as the platform is raised and lowered therethrough (see FIG. 13).

Applicant also traverses the assertion that *Weir* shows a "feed conveyer", which is also required by claim 1. Claim 1 expressly recites a "feed conveyer for bringing palletized cargo to or from said system", however, the conveyer 215 of *Weir* merely transfers "oversized pieces" from one side of the terminal to the other and bypasses the rest of the system; there is no teaching or suggestion that it feeds palletized cargo to or from the system as required by claim 1.

In order to anticipate a claim, the reference must teach every element of the claim (MPEP 2131). For reasons explained above, *Weir* fails to show a traveling conveyer that moves between the recited locations, or a feed conveyer for bringing palletized cargo to or from the system, both of which are expressly required by claim 1. Claim 11 depends from claim 1 and includes the limitations thereof. Applicant therefore respectfully submits that *Weir* fails to anticipate claim 1 and 11, and requests that the rejection thereof under 35 USC §102 be reconsidered and withdrawn.

c. Response to Rejections of Claims under 35 USC §103

Claim 4 was rejected under 35 USC §103(a) over *Weir* in view of *Hayashi* (U.S. 5,082,415). Claims 6-8 were rejected under 35 USC §103(a) over *Weir* in view of *Tharp* (U.S. 5,887,699). Claim 9 was rejected under 35 USC §103(a) over *Weir* in view of *Tharp* and *Ringer* (U.S. 4,093,084). Claims 10 and 14 were rejected under 35 USC §103(a) over *Weir* in view of *Tharp* and *Thorton*. Claims 12-13 were rejected under 35 USC §103(a) over *Weir* in view of *Tharp*, *Thorton* and *Barski* (U.S. 3,042,230). Claim 15 was rejected under 35 USC §103(a) over *Weir* in view of *Thorton* and *Winski* (U.S. 5,562,403). Claims 16-17, 22, 24 and 26 were rejected under 35 USC §103(a) over *Weir* in view of *Thorton*. Claim 18-19 were rejected under 35 USC §103(a) over *Weir* in view of *Thorton* and *Barski*. Claims 21, 23 and 25 were rejected under 35 USC §103(a) over *Weir* in view of *Thorton*, *Barski* and *Winski*.

With regard to claims 4, 6-10 and 12-15, Applicant respectfully traverses the rejections. The primary reference in all of the §103 rejections is *Weir*. As discussed above, independent claim 1, from which those claims depend, contains limitations that

are not shown by *Weir*, i.e., the means for moving a traveling conveyer between the specified locations and the feed conveyer for bringing palletized cargo to or from the system. The secondary references were cited as showing various elements in the dependent claims, and add nothing that would teach or suggest the limitations of independent claim 1 and its dependent claims. Since the cited references, taken alone or in combination, fail to teach or suggest those limitations, the references fail to establish a *prima facie* case of obviousness against claims 1-15. Applicant therefore respectfully requests that the rejection of claims 4, 6-10 and 12-15 under 35 USC §103 be reconsidered and withdrawn.

With regard to claims 16-26, Applicant has amended independent claim 16 to distinguish over the cited references. Specifically, claim 16 has been amended to include the elements formerly recited in claim 21, i.e., that the system includes an unloading paddle, means for moving the unloading paddle from a retracted position beneath the upper surface of the extensible back member to a deployed position in which it projects above the upper surface of the dock member, and means for translating the unloaded paddle in the deployed position so as to push the cargo off of the dock member.

The Office Action asserted that "*Winski* discloses an unloaded paddle 34, means for selectively the paddle 36, and means for translating an unloading paddle... Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Weir's* dock member to include the paddle and means for selectively moving a paddle as per the teachings of *Winski*." However, even if the references were to be combined in a manner that has been proposed by the Examiner, the resulting combination would fail to meet the structure required by the claim: Amended claim 16 expressly requires (a) an unloading paddle that is mounted to the dock member and (b) means for moving the paddle from a retracted position beneath the upper surface of the dock member to a deployed position above the upper surface of the dock member. *Winski* shows neither; instead *Winski* shows a push arm that is mounted to a ram suspended above the dock (i.e., transfer plate 66) rather than mounted thereto. Moreover, the arm 34 of *Winski* is always positioned above the upper surface of the dock, whether it

is in its horizontal or vertical position, and never below the upper surface of the dock required by Applicant's claims.

Consequently, if one were to combine *Winski* with *Weir* and *Tharp* as suggested in the Office Action, the resulting combination would have a push arm mounted on a ram above the dock, and would not meet the requirements of Applicant's amended claim 16. Applicant therefore respectfully submits that the rejections of claims 16-19 and 22-26 under 35 USC §103 have been overcome by the present Amendment.

d. Conclusion

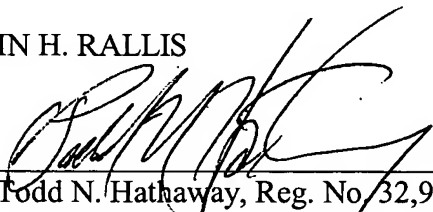
Applicant respectfully requests reconsideration of the present application in view of the remarks set forth herein. It is believed that the claims are now in condition for allowance. If there is any matter that can be expedited by consultation with Applicant's attorney, such would be welcome. Applicant's attorney can normally be reached at the telephone number given below.

Signed at Bellingham, County of Whatcom, State of Washington this 3rd day of March, 2006.

Respectfully submitted,

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